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# **SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS**



## **ANNUAL REPORT 1993-1994**

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State Budget And Control Board

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STATE DOCUMENTS

LETTER OF TRANSMITTAL

The Honorable Carroll Campbell Governor and Members of the General Assembly.

Gentlemen and Ladies:

We are pleased to submit, in accordance with the requirements of the S.C. Consumer Protection Code, the Nineteenth Annual Report of the S.C. Department of Consumer Affairs for the period July 1, 1993 to June 30, 1994. Correspondence may be addressed to all Commissioners, c/o S.C. Department of Consumer Affairs, Post Office Box 5757, Columbia, S.C. 29250

Respectfully submitted,

COMMISSION ON CONSUMER AFFAIRS

Lehman A. Moseley, Jr., Chairman, Greenville

Dr. Lonnie Randolph, Jr., Vice Chairman,  
Columbia

Secretary of State James M. Miles, Chapin

Barbara League, Greenville

Gene McCaskill, Camden

Lillian Bloom, Greenville

Robert Leapord, Greer

DeAnna Trout, Moncks Corner

Harry Walker, Columbia

NOTE: In April, 1994, Ron Skipper of Hartsville was elected by the General Assembly and William Patrick Flack of Anderson was appointed by the Governor to the Commission on Consumer Affairs.



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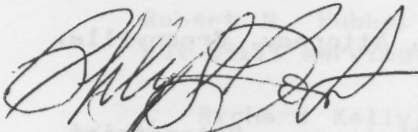
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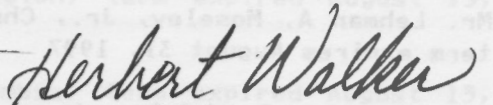
TO: The S.C. Commission on Consumer Affairs

Gentlemen and Ladies:

In compliance with the requirements of the S.C. Consumer Protection Code, I am pleased to provide you with the Annual Report of the S.C. Department of Consumer Affairs covering Fiscal Year 1994. This is a report of the S.C. Department of Consumer Affairs and includes information on its operation, functions, duties, and organization. Information on consumer complaints and registered creditors subject to the provisions of the S.C. Consumer Protection Code is included in summary form.

Respectfully submitted,

  
Philip S. Porter  
Acting Co-Administrator  
for Legal Affairs and  
Acting Consumer Advocate

  
Herbert Walker  
Acting Co-Administrator  
for Administrative Services

November 1, 1994  
Columbia, South Carolina

Note: Steven W. Hamm resigned as the Administrator/Consumer Advocate effective May 1, 1994.



DEPARTMENT OF CONSUMER AFFAIRS  
Organization

I. COMMISSION ON CONSUMER AFFAIRS

The Commission on Consumer Affairs is composed of 9 members, one of whom is the Secretary of State. Of the remaining 8 members, the General Assembly elects four other members from outside the legislature and the Governor appoints four members whose appointments are confirmed by the Senate. The commission is the policy making and governing authority of the S.C. Department of Consumer Affairs, appoints the Administrator and is responsible for enforcement of the S.C. Consumer Protection Code. As of the date of this report, the members of the S.C. Commission on Consumer Affairs are:

Mr. Lehman A. Moseley, Jr., Chairman, Attorney, Greenville, term expires August 31, 1997

Dr. Lonnie Randolph, Jr., Vice-Chairman, Optometrist, Columbia, term expired August 31, 1990, but still serving.

Secretary of State James M. Miles, Chapin.

Mrs. Barbara B. League, Businesswoman, Greenville, term expires August 31, 1993.

Gene McCaskill, Businessman, term expires August 31, 1995.

Mrs. Lillian Bloom, Community Volunteer, Greenville, term expires August 31, 1995.

Mrs. DeAnna Trout, Businesswoman, Moncks Corner, term expires August 31, 1994.

Mr. Robert J. Leapord, Businessman, Greer, term expires August 31, 1993.

Mr. Harry Walker, Businessman, Columbia, term expires August 31, 1992.

II. COUNCIL OF ADVISORS ON CONSUMER CREDIT

The Council of Advisors on Consumer Credit consists of 16 members who are appointed by the Governor. One of the advisors is designated by the Governor as chairman. The Council advises and consults with the Administrator concerning the exercise of his powers under the S.C. Consumer Protection Code and may make recommendations to the Administrator. Members may assist the Administrator in obtaining compliance with the S.C. Consumer Protection

Code. The following served as members of the Council of Advisors during the period July 1, 1993 through June 30, 1994.

Charlton Whipple, Chairman, Columbia, term expired August 15, 1991 but still serving.

Mason G. Alexander, Greenville, term expired August 15, 1991 but still serving.

William C. Brock, term expired August 15, 1991 but still serving.

Larry Emanuelson, North Charleston, term expired August 15, 1990 but still serving.

Robert N. Hubbs, Lexington, term expired August 15, 1990 but still serving.

C. Richard Kelly, Columbia, term expired August 15, 1992 but still serving.

Daniel R. Molony, Charleston, term expired August 15, 1990 but still serving.

Derial L. Ogburn, Columbia, term expired August 15, 1992 but still serving.

Linda Reeves, Rock Hill, term expired August 15, 1988 but still serving.

Charlie Walters, Greenville, term expires August 15, 1993.

Patrick Earl Watson, Columbia, term expired August 15, 1991 but still serving.

Charles T. Cole, Columbia, term expires August 15, 1993.

Charles Robert Mosely, Irmo, term expires August 15, 1993.

### III. COMMITTEE ON CONSUMER AFFAIRS

The Committee on Consumer Affairs monitors the implementation of the S.C. Consumer Protection Code and serves as a continuing liaison between the S.C. Department of Consumer Affairs and the General Assembly.



#### IV. S.C. DEPARTMENT OF CONSUMER AFFAIRS

##### History and Purpose

The S.C. Department of Consumer Affairs was established by the S.C. Consumer Protection Code, the state law which governs consumer credit transactions and provides for consumer protection in South Carolina. The law, which was signed by the Governor on August 13, 1974 became effective on January 1, 1975. As the state agency designated to represent the interests of consumers, the S.C. Department of Consumer Affairs attempts to resolve complaints and seeks to inform and educate consumers in order to create an atmosphere in which consumers will be more aware of their rights and responsibilities in the marketplace. On July 25, 1978, the law was amended to create the division of Consumer Advocacy as a part of the S.C. Department of Consumer Affairs, in order to assure that the consuming public was represented before regulatory agencies undertaking to fix rates or prices for consumer products or services.

##### Organization

The S.C. Department of Consumer Affairs is organized into four divisions: Administration, Consumer Services (complaints), Consumer Advocacy and the Legal Division.

##### Main Objectives of the Department

As initially created, the primary function of the S.C. Department of Consumer Affairs is to regulate the consumer credit marketplace, to attempt to resolve any complaint arising out of the production, promotion or sale of consumer goods or services in South Carolina, whether or not credit is involved, and to promote a healthy competitive business climate with mutual confidence between buyers and sellers. The function and duties of the division of Consumer Advocacy are to provide legal representation of the consumer interest before state and federal regulatory agencies when these agencies undertake to fix rates or prices for consumer products or services or to enact regulations or establish policies. In addition to its legal representation role, the division of Consumer Advocacy also monitors existing regulations, rate structures, and policies of special consumer interest and is charged with the responsibility of reporting, through the media, to the general public on the effect of the proposed changes on their lives. The department also licenses, registers and regulates motor clubs, physical fitness service organizations, pawn brokers, mortgage loan brokers and enforces the private personnel placement services act and the unsolicited telephone calls act.

## Services

The S.C. Department of Consumer Affairs serves consumers through the following activities:

- (a) Analysis and investigation of individual complaints;
- (b) Investigation of business practices if patterns of fraud are indicated or suspected;
- (c) Referral to agencies with direct jurisdiction for immediate and specific assistance;
- (d) Public educational and informational programs designed to educate the consumer about credit practices and problems, unfair and deceptive practices, remedies and relief available to consumers and current utility and insurance issues;
- (e) Initiation of and participation in legal actions to prevent individuals from violating the S.C. Consumer Protection Code, to prohibit unconscionable conduct, and to protect consumers from having to pay excessive utility and insurance rates;
- (f) Inform consumers who file a request under the Freedom of Information Act whether complaints have been filed against a particular company and how said complaints were resolved;
- (g) Legal representation of the public in utility and insurance rate and policy proceedings before state and federal regulatory agencies.
- (h) Licensing and regulation of motor clubs, rent-to-own businesses, physical fitness service organizations, pawn brokers, mortgage loan brokers, automobile brokers, athletic agents, private personnel placement agencies and telephone solicitation companies.

The S.C. Department of Consumer Affairs does not:

- (a) Advise whether or not a business is reputable;
- (b) Advise a consumer to buy a particular product or service or to patronize a particular business; and
- (c) Provide information such as the location or phone number of a business if such information is not a maintained public record.



V. OFFICE OF ADMINISTRATOR OF CONSUMER AFFAIRS

The Administrator is appointed by the Commission on Consumer Affairs, serves at its pleasure, and is responsible to the Commission for the following functions and purposes as prescribed by the S.C. Consumer Protection Code:

To further consumer understanding of the terms of credit transactions and to foster competition among the suppliers of consumer credit so that consumers may obtain credit at reasonable cost.

To protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit having due regard for the interests of legitimate and scrupulous creditors. To permit and encourage the development of fair and economically sound consumer credit practices.

To conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act.

To implement the S.C. Consumer Protection Code in the state of South Carolina in accordance with the terms and provisions therein contained.

To establish programs for the education of consumers with respect to credit practices and problems.

To counsel persons and groups of their rights and duties under the S.C. Consumer Protection Code.

To make appropriate studies to effectuate the purposes and policies of the S.C. Consumer Protection Code and to make the results of such studies available to the public.

To report on the use of consumer credit in South Carolina and to report on the problems of persons of small means in obtaining credit.

To cooperate with and assist the S.C. Attorney General, the United States Attorney and all state and local agencies performing consumer protection functions in carrying out their legal enforcement responsibilities for the protection of consumers.

To initiate and encourage programs that inform consumers of market practices and schemes which are fraudulent, deceptive or illegal; how to detect and avoid abusive consumer transactions; and of remedies and relief available to consumers.

To receive complaints of individuals pertaining to any consumer transaction arising out of the production, promotion or sale of consumer goods and services; endeavor to determine the probable basis and merit of such complaints and advise the complainant of such determination;

To refer to the appropriate state or federal agency any complaint which is under the jurisdiction of such agency for appropriate action;

To endeavor to bring about a voluntary adjustment of any such complaint not within the jurisdiction of any regulatory or enforcement agency;

To undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services;

To study the operation of consumer protection laws and recommend to the Governor and the General Assembly new laws and amendments to laws which would promote the protection of legitimate interests of consumers within this state.

The Administrator is also the Consumer Advocate for the state of South Carolina. The Consumer Advocate provides legal representation of the consumers interest before regulatory agencies undertaking to fix rates or prices for consumer products or services, enact regulations or establish policies.

The Consumer Advocate also monitors regulations, rate structures and policies of regulatory agencies and brings items of special interest and importance to consumers for their attention through the news media.

#### DIVISION OF ADMINISTRATION

The Division of Administration is responsible for providing budget, supply, personnel, training, data processing, news releases and consumer protection education and other administrative support to the S.C. Department of Consumer Affairs. In addition, the division is responsible for maintaining files and accounting for revenue generated from the following acts:

- S.C. Consumer Protection Code and Credit Notification
- Maximum Rate Schedules
- Motor Clubs Service Act
- Physical Fitness Services Act
- Pawnbrokers Act
- Mortgage Loan Brokers Act
- State Continuing Care Retirement Community Act
- Athletic Agents Act
- Staff Leasing Services Act

The following table shows the Budget Status Report for Fiscal Year 1993-1994.



# A. STATEMENT OF EXPENDITURES

ACCOUNT	APPROPRIATIONS	EXPENDED	BALANCE
Administration:			
Personnel: (FTE)	(14.00)		
Unclassified	146,988.00	145,554.00	1,434.00
Classified	327,825.00	326,297.00	1,528.00
Other	3,367.00	2,205.00	1,162.00
Operations:	302,819.00	302,819.00	0
Legal:			
Personnel: (FTE)	(15.50)		
Classified	339,300.00	329,952.00	9,348.00
Operations:	22,156.00	22,156.00	0
Consumer Services:			
Personnel: (FTE)	(10.00)		
Classified	197,054.00	190,765.00	6,289.00
Operations:	19,016.00	19,016.00	0
Consumer Advocacy:			
Personnel: (FTE)	(9.50)		
Classified	235,170.00	228,370.00	6,800.00
Operations:	224,577.00	169,911.00	54,666.00
Employer			
Contributions:	335,858.00	303,741.00	32,117.00
Totals:	2,154,130.00	2,040,786.00	113,344.00
	=====	=====	=====
Total Authorized FTE	(49.00)		

## Note 1 - Forfeiture of Financial Responsibility

In fiscal year 1994 \$15,000.00 was returned to consumers from settlement of litigations. A balance of \$32,871.00 was carried forward to fiscal year 1995 for the same purpose.

## Note 2 - Violations of SCCPC or TILA

In fiscal year 1994 the Department of Consumer Affairs collected \$7,180.00 in administrative penalties to offset the cost of enforcement actions in process. A total of \$7,117.00 of these funds were carried forward for use in fiscal year 1995.

## Note 3 - Carry Forward Provisos

Proviso 67.3, 1993-94 Appropriations Act authorizes unexpended encumbered appropriated funds for the expert witness/assistance program to be carried forward into the next fiscal year. The Department carried forward \$54,666 for this purpose.

Proviso 129.61, 1993-94 Appropriations Act, authorizes unexpected appropriated funds of up to 5% of authorized budget be carried forward into the next fiscal year. The Department carried forward \$58,678.00 to FY 1994-95.

	(1)	(2)	(3)	(4)	(5)
	Single	Multi	Multi	Multi	Multi
	Loc	Loc	Loc	Loc	Loc
	Payroll	Payroll	Payroll	Payroll	Payroll
	(1+2)	(1+3)	(1+4)	(1+5)	(1+6)
Appliance Dealers	25	25	104	104	104
Athletic Clubs	2	2	0	0	0
Automobile Parts	94	94	100	100	100
Banks	17	17	68	68	68
Best/Appliance Dealers	11	11	2	2	2
Building Materials	25	25	166	166	166
Consumer Finance	121	121	149	149	149
Consumer Insurance	8	8	2	2	2
Consumer Leases	8	8	7	7	7
Cashier	19	19	8	8	8
Credit Union	17	17	22	22	22
Department Stores	8	8	168	168	168
Educational Institution	4	4	0	0	0
Exercise Clubs	1	1	0	0	0
Farm Equipment	20	20	4	4	4
Florists	8	8	0	0	0
Furniture Homes	27	27	19	19	19
General Merchandise	9	9	10	10	10
Grocery/Fruit Stores	21	21	20	20	20
Home Furnishings	179	179	218	218	218
Hospitals	9	9	27	27	27
Jewelry	22	22	112	112	112
Mobile Homes	26	26	68	68	68
Motor Vehicles	478	478	107	107	107
Oil Companies	22	22	121	121	121
Pharmacy/Drug Stores	30	30	4	4	4
Professionals	4	4	1	1	1
Premium Service	6	6	1	1	1
Real Estate	1	1	1	1	1
Recreation Vehicle	20	20	4	4	4
Rent to Own	26	26	121	121	121
Regulated Lenders	1	1	0	0	0
Retail Shops	2	2	0	0	0
Retail Merchants	218	218	167	167	167



# REGISTERED CREDITORS

The S.C. Consumer Protection Code requires that persons who make consumer credit sales, leases or loans, or persons who engage in rent-to-own, and persons who take assignments of rights against debtors arising from such transactions are required to file a notification form and pay a notification fee to the S.C. Department of Consumer Affairs for each location at which such transactions are made. The following table shows the type, and number of locations of such creditors currently registered with the S.C. Department of Consumer Affairs. NOTE: Automobile dealers are listed under the category for Motor Vehicles.

	(1) Single Loc Creditors	(2) Multi Loc Creditors	(3) Multi Loc	(4) Total Loc Paying (1+3)	(5) Total Filings Mailed (1+2)
Appliance Dealers	57	22	104	161	79
Athletic Clubs	2	0	0	2	2
Automobile Parts	94	30	100	194	124
Banks	17	60	881	898	77
Boat/Airplane Dealers	11	3	6	17	14
Building Materials	52	27	166	218	79
Consumer Finance	121	86	749	870	207
Consumer Insurance	8	1	2	10	9
Consumer Lease	8	2	7	15	10
Cemeteries	19	4	8	27	23
Credit Unions	17	6	22	39	23
Department Stores	8	7	168	176	15
Educational Institution	4	0	0	4	4
Exercise Clubs	1	0	0	1	1
Farm Equipment	20	2	4	24	22
Florists	8	0	0	8	8
Funeral Homes	27	9	19	46	36
General Merchandise	9	3	10	19	12
Hardware/Paint Stores	51	8	20	71	59
Home Furnishings	179	56	218	397	235
Hospitals	9	6	21	30	15
Jewelry	25	26	115	140	51
Mobile Homes	36	26	68	104	62
Motor Vehicles	470	69	107	577	539
Oil Companies	25	24	121	146	49
Pharmacies/Drug Stores	30	2	4	34	32
Professionals	4	1	1	5	5
Premium Service	6	1	1	7	7
Real Estate	1	1	1	2	2
Recreation Vehicle	20	3	6	26	23
Rent to Own	26	25	121	147	51
Regulated Lenders	1	0	0	1	1
Repair Shops	2	0	0	2	2
Retail Merchants	218	55	167	385	273

Sales Finance	2	3	12	14	5
Spas & Health Clubs	1	1	3	4	2
Sporting Goods	10	2	6	16	12
Savings & Loan	6	22	176	182	28
Service Stations	2	1	1	3	3
Undetermined	1	0	0	1	1
Wearing Apparel	13	8	64	77	21
	-----	-----	-----	-----	-----
TOTAL	1,621	602	3,479	5,100	2,223

# REVENUE:

Fees.....	\$458,640.00
Penalties.....	\$ 10,328.00
Total Received.....	\$468,968.00

HA	Wearing Apparel	8	11
UH	Undetermined	2	2
SS	Service Stations	4	4
SL	Savings & Loan	18	144
SG	Sporting Goods	13	17
SH	Spas & Health Clubs	4	4
SI	Sales Finance	4	4
RM	Retail Merchants	205	356
RP	Repair Shops	2	2
RU	Rent To Own	12	16
RV	Restoration Vehicles	21	22
RE	Real Estate	2	2
PS	Premium Service	0	0
PR	Professional	2	2
PH	Pharmacies/Drug Stores	4	4
OC	Oil Companies	21	78
WV	Motor Vehicles	192	820
HM	Mobile Homes	44	29
MA	Marine Arts	0	0
JA	Jewelry	62	121
HO	Hospitals	0	0
HF	Home Furnishings	219	440
H2	Hardware/Paint Stores	28	28
GM	General Merchandise	4	11
FH	Furnish Home	1	1
FL	Florists	8	0
FE	Farm Equipment	12	14
EC	Exercise Clubs	1	1
EI	Educational Inst	1	1
B2	Restaurant/Stores	11	
CP	Gas Stations	8	
CL	Consumer Finance	4	
CF	Consumer Finance	207	1,084
BM	Building Materials	27	122
BD	Boat/Boat Dealers	7	8



# MAXIMUM RATE SCHEDULE FILINGS

The Consumer Protection Code Revision Act of 1982 requires that creditors who wish to charge an Annual Percentage Rate (APR) in excess of 18% must file a Maximum Rate Schedule (MRS) with the S.C. Department of Consumer Affairs. A Maximum Rate Schedule must also be posted in the creditor's place of business. The following table shows the number and type of creditors which have filed an MRS with the S.C. Department of Consumer Affairs for FY 1993-1994.

	Total Filings	Total Locations
AD Appliance Dealers	99	174
AC Athletic Clubs	1	1
AP Automobile Parts	113	161
BA Banks	74	895
BD Boat/Airplane Dealers	7	8
BM Building Materials	57	123
CF Consumer Finance	297	1,084
CL Consumer Leases	4	4
CP Cemeteries	8	10
DS Department Stores	11	140
EI Educational Inst	1	1
EC Exercise Clubs	1	1
FE Farm Equipment	12	14
FL Florists	0	0
FH Funeral Homes	1	1
GM General Merchandise	8	11
HS Hardware/Paint Stores	55	58
HF Home Furnishings	279	440
HO Hospitals	0	0
JL Jewelry	62	151
MA Martial Arts	0	0
MH Mobile Homes	44	59
MV Motor Vehicles	790	830
OC Oil Companies	21	78
PH Pharmacies/Drug Stores	4	4
PR Professionals	3	3
PS Premium Service	0	0
RE Real Estate	3	3
RV Recreation Vehicles	21	25
RO Rent To Own	12	18
RP Repair Shops	2	2
RM Retail Merchants	295	326
SF Sales Finance	6	6
SP Spas & Health Clubs	4	4
SG Sporting Goods	15	17
SL Savings & Loan	18	144
SS Service Stations	4	4
UN Undetermined	2	2
WA Wearing Apparel	6	11
TOTAL	2,340	4,813

**REVENUE:**

Certified Copy Fees.....	\$ 0.00
Certified Rate Filing Fees.....	<u>\$47,360.00</u>
Total Received.....	\$47,360.00

**MOTOR CLUB FILINGS**

The Motor Club Services Act requires that all motor clubs doing business in the state, and representatives of these clubs, file with the S.C. Department of Consumer Affairs. The following information represents the motor clubs and motor club representatives filing with the S.C. Department of Consumer Affairs for FY 1993-1994.

Motor Clubs .....	34
Motor Club Representatives .....	1,231

**REVENUE:**

Motor Clubs .....	\$17,000.00
Representatives .....	<u>\$24,620.00</u>
Total Received .....	\$41,620.00

# PHYSICAL FITNESS FILINGS

The Physical Fitness Services Act requires that all businesses offering physical fitness services in the state file with the S.C. Department of Consumer Affairs. The following information represents the physical fitness filing with the S.C. Department of Consumer Affairs for the FY 1993-1994.

	Total Filings	Total Locations
AC Athletic Clubs	33	34
AE Water Exercise	0	0
DS Dance Studios	3	3
EC Exercise Clubs	84	91
GO Golf Courses	15	15
HS Health Spa	4	6
MA Martial Arts	24	30
RM Retail Merchant	4	4
RO Rent To Own	3	4
SP Spas & Health Clubs	12	12
TS Tanning Salons	511	520
WL Weight Loss	33	47
Total	726	766

## REVENUE:

Certificate of Authority . . . . . \$38,235.00

## PAWNBROKER

The Pawnbroker Act requires that all businesses offering pawnbroker services in the state file with the S.C. Department of Consumer Affairs. The following information represents the pawnbrokers filing with the S.C. Department of Consumer Affairs for FY 1993-1994.

PAWNBROKERS FILINGS . . . . . 212  
PAWNBROKERS LOCATIONS . . . . . 228

## REVENUE:

PAWNBROKERS . . . . . \$60,400.00



## MORTGAGE LOAN BROKERS

The Mortgage Loan Brokers Act requires that all businesses offering mortgage loan broker services in the State file with the S.C. Department of Consumer Affairs. The following information represents the mortgage loan brokers filing with the S.C. Department of Consumer Affairs for FY 1993-1994.

BUSINESS CATEGORIES	TOTAL FILINGS	TOTAL LOCATIONS
MB MORTGAGE BROKER	<u>134</u>	<u>165</u>

### REVENUE:

MORTGAGE LOAN BROKERS. . . . . \$75,535.00

## ATHLETE AGENTS AND STUDENT ATHLETES

The Athlete Agents and Student Athletes Act requires that all Athletic Agents operating in this state file with the South Carolina Department of Consumer Affairs. The following information represents the Athletic Agents filing with the South Carolina Department of Consumer Affairs for FY 1993-1994.

ATHLETIC AGENTS FILING . . . . . 6

### REVENUE:

ATHLETIC AGENTS . . . . . \$1,800.00

## CONTINUING CARE RETIREMENT COMMUNITIES

The State Continuing Care Retirement Community Act requires that all Continuing Care Retirement Communities operating in this state file with the South Carolina Department of Consumer Affairs. The following information represents the Continuing Care Retirement Communities filings with the South Carolina Department of Consumer Affairs for FY 1993-1994.

CONTINUING CARE RETIREMENT COMMUNITY FILINGS . . . . . 14

### REVENUE:

CONTINUING CARE RETIREMENT COMMUNITY FEES . . . . . \$26,500.00

TOTAL . . . . . \$26,500.00

## STAFF LEASING SERVICES

The Staff Leasing Services Act requires that all businesses offering Staff Leasing Services in the state be licensed by the

TOTAL FILINGS . . . . .	10
Application Fees. . . . .	\$ 3,800.00
License Fees. . . . .	<u>\$10,000.00</u>
Total Received. . . . .	\$13,800.00

## LEGAL DIVISION

The investigative and legal enforcement activities of the South Carolina Department of Consumer Affairs are assigned to the Legal Division which consists of a Chief Enforcement Attorney, two staff attorneys, a Chief Investigator, an Assistant Chief Investigator, five investigators, a secretary and is supervised by the Deputy for Regulatory Enforcement. Certain consumer complaints are investigated for possible violations of the law. The Division works with appropriate federal, state, county, and local authorities as necessary.

Investigations conducted include an information gathering procedure on selected complaints where suspected violations of the Consumer Protection Code may be involved, as well as more formal investigations where a violation of the Consumer Protection Code or other law administered by the agency is either evident or suspected.

During FY 1993-1994 the S.C. Department of Consumer Affairs continued a joint state-federal odometer investigation and prosecution effort. An investigator from the S.C. Department of Consumer Affairs continued as a special agent of the Federal Grand Jury and was responsible for developing odometer cases for Federal criminal prosecution.

During this reporting year seven automobile dealers were convicted for odometer tampering in the District of South Carolina.

The Department received fifty requests for verification of odometer readings, two cases were referred for criminal prosecution. Also, as a result of the Department's efforts, the federal courts ordered \$8,000.00 in restitution to victims of odometer fraud. One dealer voluntarily paid \$16,000 in restitution. Another dealer paid \$4,000.00.

During FY 1993-1994, the Department continued its efforts in litigating various civil suits commenced in previous years. The Department continued its efforts to identify and reimburse victims of a previously reported Horry County unlicensed lender.

A previously reported case involving an automobile sale and leaseback sham resulted in ratable refunds of \$15,000 being made from the dealers' bond to repossession victims. That business had lent money to individuals and had them sign their titles in blank, while simultaneously signing purported sale and leaseback agreements. The owner had previously fled the state after the Department obtained an order from the Court enjoining his illegal activities.

In FY 1993-94 the Department was involved in four other litigation matters. In one, the Department asked for and received permission to proceed as AMICUS CURIAE in an appeal of the Federal District Courts dismissal of a class action. The action had been brought challenging the lending practices of a national bank affiliated with a nationwide consumer finance company acting in conjunction with a tax return service to make tax refund loans. The District Court followed a number of



federal cases finding that the National Bank Act preempts state rate limitation, but went further to find that even the Code's unconscionability provisions were also preempted. The Department joined certain other states in pointing out to the Fourth Circuit Court of Appeals that state regulation of consumer finance companies is seriously undermined if such companies are at liberty to make loans through affiliated banks and ignore state law in the process. The appeal is pending at this time.

The Department likewise brought suit against a credit seller of burial services for violations of cancellation notice provisions, Truth in Lending provisions and unconscionability provisions of the Consumer Protection Code. The Department alleges that the proprietor failed to honor cancellation requests and used simulated process to attempt to collect the debts. That matter is pending.

Two cases resulted from the Department's administrative enforcement activities. These were the aluminum can cases discussed below. One case resulted in a fine and consent order signed by the Circuit Court Judge, the other remains pending.

#### Administrative Enforcement

During FY 1993-1994, the Department continued and increased its efforts in administrative enforcement of the South Carolina Consumer Protection Code and the other statutes administered by the Department.

In particular, the staff brought before the Administrator three cases against aluminum recyclers who had been determined to have repeatedly short weighed quantities of aluminum cans bought from the public. All of them resulted in cease and desist orders, and the assessment of fines, although one consent order was entered into prior to hearing by the Administrator. The staff applied to the Circuit Court for enforcement of the other two cease and desist orders. The staff also exercised the license forfeiture clause of a previously reported consent order of a mortgage loan broker. The broker had collected up-front fees and been unwilling or unable to refund them when no loan was obtained. Upon the broker's failure to comply with the terms of the consent order, the license was invalidated. The broker has since been convicted of federal fraud charges stemming from his brokering activities. A summary of these and other administrative cases is set forth in Schedule A.

The Department also maintained its advertising review system designed to prevent Truth in Lending or Unfair Trade Practices violations in consumer advertising and to encourage the use of established guidelines in advertising. A media advertisement by a merchant which appears to be violative causes the staff to send a review letter explaining the problem and recording it for later use in the event enforcement action is necessary. The Administrator issued a cease and desist order and a fine to a car dealership found to have violated the law and

guidelines. A breakdown of subject and category of these review letters is set forth in Schedule B.

#### Licensing Application Reviews

The staff routinely receives and acts upon license applications for prospective pawnbrokers, mortgage loan brokers, physical fitness service providers, motor clubs and athletic agents. The staff must make determinations ranging from adequacy of financial security to character and fitness, fingerprint identification and recommendations of local law enforcement agencies (pawnbrokers). A breakdown of application reviews is set forth in Schedule C.

#### Compliance Reviews

The staff also reviews licensed businesses for compliance with governing laws. The staff compares the providers' contracts and payment records against prepared checksheets for accuracy, disclosure compliance and compliance with Code limitations. A month by month breakdown of reviews conducted in FY 1993-1994 is set forth in Schedule D.

#### Special Projects

Two pieces of legislation were passed by the General Assembly adding to or amending the Department's statutory responsibilities. The Prizes and Gift Act was enacted by Act 483 of 1994 to create a Chapter 15 of the Consumer Protection Code. The Act prohibits the use of representation that the recipient has won a prize or contest when the recipient has any monetary obligation in order to obtain the prize. It also prohibits the use of simulated checks and invoices, as well as the representation that the recipient was "specially selected" if that was not so.

Also Act 363 of 1994 amended the Code to cover the decreasing term credit life insurance premium to \$.65 per one hundred dollars of indebtedness.

Ferrari S.A.	0	0	0	None Identified
General Motors	5	0	5	Better Business Bureau Autoline
Buick Div.	1	0	1	
Cadillac Div.	0	0	0	
Chevrolet Div.	1	0	1	
GMC Truck Div.	3	0	3	
Pontiac Div.	0	0	0	
Oldsmobile Div.	0	0	0	
(American) Honda	0	0	0	Better Business Bureau Autoline
Honda Div.	0	0	0	
Acura Div.	0	0	0	

## 2. ENFORCEMENT AND COMPLIANCE ACTIVITIES

MONTH	ADMIN. ENFORC.	ADVER. LETTERS	LICENSE APPL.	COMPL. REV.
July, 1993	0	0	115	35
August, 1993	1	22	78	35
September, 1993	2	15	48	51
October, 1993	4	18	76	33
November, 1993	0	9	187	29
December, 1993	2	0	237	45
January, 1994	0	0	182	33
February, 1994	0	0	74	19
March, 1994	5	0	66	35
April, 1994	0	4	44	18
May, 1994	9	2	138	11
June, 1994	11	0	124	31
TOTALS FOR YEAR	34	70	1369	375



## 5) Lemon Law Compliance

Pursuant to Section 56-28-100 of the Code of Laws of South Carolina, each automobile manufacturer must report vehicles that were repurchased or replaced under the "lemon law" or other warranty law. Additionally, the compliance form asks the manufacturer to identify the arbitration program used, if any. A summary of these reports for the 1993 calendar year is set forth below, together with the number of cases that were only resolved after invocation of the arbitration program or filing a law suit. Some manufacturer's reported all vehicles that were repurchased or replaced (e.g. Chrysler Motors); other manufacturer's only reported vehicles that were repurchased or replaced as a result of arbitration or a law suit (e.g. Ford Motor Co. and General Motors).

Manufacturer	Repurchased/ Replaced	Law Suit	Arbitra- tion	Arbitration Program
Alfa Romeo	1	1	0	None
BMW of N.A., Inc.	0	0	0	None
Chrysler Motors	23	11	6	Chrysler Arbitra- tion Board
Chrysler Div.	3	1	1	
Dodge Div.	15	8	4	
Jeep Div.	3	1	1	
Plymouth Div.	2	1	0	
Renault Div.	0	0	0	
Ford Motor	4	0	4	Ford Dispute Settlement Board
Ford Div.	3	0	3	
Lincoln Div.	1	0	1	
Mercury Div.	0	0	0	
Ferrari N.A.	0	0	0	None Identified
General Motors	5	0	5	Better Business Bureau Autoline
Buick Div.	1	0	1	
Cadillac Div.	0	0	0	
Chevrolet Div.	1	0	1	
GMC Truck Div.	3	0	3	
Pontiac Div.	0	0	0	
Oldsmobile Div.	0	0	0	
(American) Honda	0	0	0	Better Business Bureau Autoline
Honda Div.	0	0	0	
Acura Div.	0	0	0	

Hyundai	7	0	4	AAA Autosolve
(American) Isuzu	0	0	0	Better Business Bureau Autoline
Jaguar Cars	0	0	0	None Identified
Lexus	0	0	0	AAA Autosolve
Mazda	0	0	0	None Identified
Mercedes-Benz	1	0	0	None Identified
Mitsubishi	0	0	0	Autocap
Nissan	No Report Made			
Peugot	0	0	0	None
Porsche	0	0	0	AAA Autosolve
Saturn	0	0	0	None Identified
Subaru	0	0	0	None Identified
(American) Suzuki	0	0	0	None Identified
Toyota	4	2	0	AAA Autosolve
Volkswagen of America	3	0	0	Better Business Bureau Autoline
Volkswagen Div.	1	0	1	
Audi Div.	2	0	0	
Volvo	0	0	0	None Identified
TOTALS	48	14	20	

#### Major Problems by Category:

1. Accessories	0	9. Cooling	0
2. A/C or Heating	4	10. Electrical	2
3. Alignment	3	11. Engine	9
4. Axles	4	12. Interior	1
5. Body Finish	6	13. Steering	1
6. Body Fit	7	14. Suspension	0
7. Brakes	2	15. Transmission	5
8. Computer	1	16. Other	2

Of the 48 repurchased or replaced vehicles, 16 were resold in South Carolina, 12 in North Carolina, 5 in Georgia, 2 in

California, 2 in Texas, 1 in Alabama, 1 in New York, 1 in Oklahoma, 1 in Tennessee, and 1 in Virginia; the remainder are awaiting resale. One of them will not be resold because of fire damage.

Month	Settled Before Hearing	Settled After Hearing	Order w/ Fine	Allegation Financial	Responsibility Approved	Application Withdrawn	Other Order	Conviction Reimbursement
June, 1993	0	0	0	0	0	0	0	0
July, 1993	0	0	0	0	0	0	0	0
August, 1993	0	0	0	0	0	0	0	0
September, 1993	0	0	0	0	0	0	0	0
October, 1993	0	0	0	0	0	0	0	0
November, 1993	0	0	0	0	0	0	0	0
December, 1993	0	0	0	0	0	0	0	0
January, 1994	0	0	0	0	0	0	0	0
February, 1994	0	0	0	0	0	0	0	0
March, 1994	0	0	0	0	0	0	0	0
April, 1994	0	0	0	0	0	0	0	0
May, 1994	0	0	0	0	0	0	0	0
TOTALS	0	0	0	0	0	0	0	0

Month	Settled Before Hearing	Settled After Hearing	Order w/ Fine	Allegation Financial	Responsibility Approved	Application Withdrawn	Other Order	Conviction Reimbursement
June, 1993	0	0	0	0	0	0	0	0
July, 1993	0	0	0	0	0	0	0	0
August, 1993	0	0	0	0	0	0	0	0
September, 1993	0	0	0	0	0	0	0	0
October, 1993	0	0	0	0	0	0	0	0
November, 1993	0	0	0	0	0	0	0	0
December, 1993	0	0	0	0	0	0	0	0
January, 1994	0	0	0	0	0	0	0	0
February, 1994	0	0	0	0	0	0	0	0
March, 1994	0	0	0	0	0	0	0	0
April, 1994	0	0	0	0	0	0	0	0
May, 1994	0	0	0	0	0	0	0	0
TOTALS	0	0	0	0	0	0	0	0



# SCHEDULE A

## Administrative Enforcement Hearings: 34

Month	Phys. Fit.	Pawn- broker	Mortg. Broker	Tele. Sol.	Prob. Cause	Board Fin.	Other
July, 1993	0	0	0	0	0	0	0
August, 1993	0	0	0	0	0	0	1
September, 1993	0	0	0	0	0	0	2
October, 1993	4	0	0	0	0	0	0
November, 1993	0	0	0	0	0	0	0
December, 1993	1	1	0	0	0	0	0
January, 1994	0	0	0	0	0	0	0
February, 1994	0	0	0	0	0	0	0
March, 1994	4	0	1	0	0	0	0
April, 1994	0	0	0	0	0	0	0
May, 1994	9	0	0	0	0	0	0
June, 1993	9	0	2	0	0	0	0
TOTALS	27	1	3	0	0	0	3

## Enforcement Hearing Resolutions

Resolution	Phys. Fit.	Pawn- broker	Mortg. Broker	Prob. Cause	Board of Fin Inst	Other
Settled Before Hearing	6	0	0	0	0	0
Settlement w/ Complaint	0	0	0	0	0	0
Resolution & Fine						
Settlement w/ Fine	11	0	0	0	0	1
Cease & Desist	0	0	0	0	0	0
Order						
Order w/ Fine	2	0	2	0	0	2
Alternate Financial	6	0	0	0	0	0
Responsibility Approved						
Application Withdrawn	1	0	1	0	0	0
Other Order	1	1	0	0	0	0
Consumer Reimbursement	0	0	0	0	0	0

SCHEDULE B

Advertising Review Letters: 70

Month	Automobile	Manufact'd Housing	Jewelry	Regulated Business	Other
July, 1993	0	0	0	0	0
August, 1993	17	0	2	0	3
September, 1993	0	0	0	1	14
October, 1993	18	0	0	0	0
November, 1993	3	6	0	0	0
December, 1993	0	0	0	0	0
January, 1994	0	0	0	0	0
February, 1994	0	0	0	0	0
March, 1994	0	0	0	0	0
April, 1994	0	0	0	0	4
May, 1994	1	0	0	0	1
June, 1994	0	0	0	0	0
TOTALS	39	6	2	1	22

Breakdown of letters according to nature of business  
and subject of letter

Subject	Automobile	Manufactured Housing	Jewelry	Regulated Business	Other
TIL	9	5	0	0	1
Lease	12	0	0	0	0
Free	2	0	0	0	0
Finan. Only	8	0	0	0	0
Rebate	0	0	0	0	0
Add-ons	0	0	0	0	0
New/Used	0	0	0	0	0
Sp Purchase	0	0	0	0	0
Liquidation	0	0	2	0	0
Factory	2	0	0	0	0
Author'z'd					
Publ Notice	1	0	0	0	0
Wholesale	0	0	0	0	2
Other*	5	1	0	0	20

\* Other includes problems that may fit into one of the listed categories but were not specifically identified

# SCHEDULE C

Licensing Application Reviews: 1369

Month	Pawn- brokers	Mortgage Brokers	Physical Fitness	Motor Clubs	Club Reps	Athletic Agents
July, 1993	46	0	68	0	0	1
August, 1993	14	11	47	0	6	0
September, 1993	10	23	9	1	5	0
October, 1993	11	33	8	23	0	1
November, 1993	6	31	133	10	7	0
December, 1993	2	15	219	1	0	0
January, 1994	3	5	172	1	0	1
February, 1994	2	16	55	0	0	1
March, 1994	6	14	44	1	0	1
April, 1994	5	19	18	0	0	2
May, 1994	81	14	38	0	4	1
June, 1994	90	19	15	0	0	0
TOTALS	276	200	826	37	22	8

# SCHEDULE D

Compliance Reviews: 375

Month	Pawnbroker	Physical Fitness	Rent-to-Own Loan Broker	Other	
July, 1993	24	2	6	3	0
August, 1993	22	1	12	0	0
September, 1993	18	3	25	5	0
October, 1993	14	6	11	2	0
November, 1993	18	4	5	2	0
December, 1993	22	15	8	0	0
January, 1994	15	7	11	0	0
February, 1994	5	4	0	10	0
March, 1994	1	0	12	22	0
April, 1994	3	0	1	14	0
May, 1994	0	1	0	10	0
June, 1994	7	5	0	19	0
TOTALS	149	48	91	87	0



## PUBLIC INFORMATION AND EDUCATION SECTION

### I. Public Information Activities

During the twelve months covered by this report the public information director and staff prepared news releases, magazine articles, scripts, speeches and maintained contact with newspapers, television or radio personnel through daily contacts and professional associations.

A. During the 1993 National Consumers Week activities (October 24-30), the Department partnered with the South Carolina Association of Crime Prevention Officers and the Center for Missing and Exploited Children and sponsored a grand celebration on the State House grounds. Using the national theme "Focus on Fraud," the observance focused on educating and protecting South Carolina consumers from fraudulent and deceptive practices. It was also an attempt to show con-artists and others who try to victimize the consuming public that we are united in our attempt to stop fraudulent practices. The celebration featured local school band, drill team and cheerleaders leading cheers related to the theme. A brochure "A South Carolina Consumer's Guide to Avoiding Con-Games and Fraud" was also developed by the sponsors and printed courtesy of Greenville Technical College. Topics included. Over 500 persons attended this event.

B. On February 3, 1994, the Department and the Community Financial Institutions of South Carolina sponsored the teleconference, HOME MORTGAGE LOANS: EVERYTHING YOU NEED TO KNOW TO OBTAIN ONE. This telecast was designed to assist consumers, through interaction with home mortgage loan and consumer professionals, to understand the process of getting a mortgage, how to deal with mortgage lenders, where to look for and what takes place when applying for a mortgage.

C. As a result of the enthusiastic response of the 1993 Credit:Life or Debt teleconference, the South Carolina Department of Consumer Affairs produced, CREDIT:LIFE OR DEBT, Part II (April 11, 1994) to assist young adults to understand credit and how to use it wisely.

Sponsored cooperatively with American Federal Bank of Greenville and the South Carolina Educational Television Network, credit professionals from across the state discussed how to establish and keep good credit, explained the basic facts regarding the costs of credit and provided information on federal and state laws that protect the consumer.

Audience interaction was provided at each site and credit education material distributed to all participants. Over 60,000 young adults saw the telecast at designated sites across the State and through the use of instructional television.

D. The Public Information and Education Director participated as a moderator at the first Transnational Consumer Protection Conference in Toronto, Canada in March of 1994. The conference, sponsored by the Direct Selling Education Foundation of Washington, DC focused on the NAFTA Treaty and related consumer protection issues specifically from the perspective of consumers. Speakers discussed topics including consumer protection in the United States, Canada and Mexico.

E. The Department and the Office of the Secretary of State sponsored a "Consumer Protection Media School" (June 3, 1994) to assist general assignment reporters and editors (including classified ads personnel) understand fraudulent and misleading advertisements. Topics included charitable giving, bulk meat sales and consumer credit transactions.

F. The Administrative Assistant continued a public information "recall" service (RECALL ROLL CALL) which consists of a bi-monthly four-page release listing recalls in the areas of food, vehicles, drugs, toys, and products. After media distribution is made, all recall notices are placed in the computer system under the subject category for quick access upon consumer request. This service generates over 300 calls monthly.

G. Continued to produce a weekly in-house news and information sheet called THE WEEK AHEAD which is designed to improve communications and morale among agency personnel.

H. Public Information Director also performed a variety of activities such as speeches, workshops and seminars for South Carolina consumers and students.

I. Arranged over 300 media contacts for appropriate SCDC staff.

## II. Educational Activities

The S.C. Department of Consumer Affairs utilized workshops, speeches, and media presentations to provide consumer education assistance to a wide cross-section of South Carolinians. The Department's educational activities continued to focus on a theme of "preventative consumerism" on such subjects as how to avoid frauds and schemes, healthy skepticism, effective consumer practices in handling consumer transactions ranging from automobile repairs to mail order purchases, coping with marketplace practices, and communicating more effectively with businesses in the resolution of complaints and problems arising out of consumer purchases of goods and services.

The educational programs were directed at students and teachers K-12 and college levels; and were provided for health institutions, churches, adult education programs, senior citizen groups, and other government agencies.

A. Speeches were presented at 95 South Carolina schools, institutions of higher learning, business and professional groups and other civic and church related organizations. Consumer education exhibits and/or presentations were made at the following conferences:

1. State Home Economics Conference
2. State Superintendents and Administrators Conference
3. State Adult Education Conference
4. S.C. Tech Prep Conference
5. Summer Leadership Academy - School Principals
7. S.C. Alliance of School Educators
8. Statewide Health Fairs

Table II (and accompanying explanation) summarizes the manner in which complaint cases were processed and closed during FY 1994.

The Division Director gave speeches, interviews, and presentations to civic groups, newspapers, TV reporters and other media regarding consumer complaints. Consumer Services continued its coordination with the Public Information and Education Section in alerting them to unique consumer problems, areas and concerns which might warrant consumer education and media attention efforts. Consumer Services staff also continued to identify violations and to refer them to the Legal Department for action.



B. Maintained a Consumer Product Safety Network across the state involving representatives from businesses, health organizations, the educational system and other state and local agencies. The Department participated in workshops and health fairs sponsored by these agencies.

C. Continued to work in cooperation with the Department of Social Services for its "Living Incentives for Tomorrow" program. The Program involves teenagers to senior citizens.

D. Continued to promote a Consumer Education Program entitled "Needs and Wants" that introduces the basic concepts of consumerism to the elementary student. Designed for grades 1-6, it encourages the use of critical thinking and decision making skills for the young consumer.

E. Continued to work in cooperation with the South Carolina technical College System with its Women's Center service programs.

F. Conducted the annual Statewide Essay Contest for 1994.

## DIVISION OF CONSUMER SERVICES

### A. Consumer Complaint Procedure

When a consumer has a complaint, he or she should first give the business an opportunity to remedy the situation. If personal contact and subsequent discussion does not resolve the problem, the consumer should contact the S.C. Department of Consumer Affairs. Consumers can call the S.C. Department of Consumer Affairs from anywhere in the state at no charge by using the department's toll free WATS line (1-800-922-1594). The consumer should briefly describe the nature of the problem. In most cases, the consumer will be sent a complaint form which should be filled out with all pertinent information and returned to the S.C. Department of Consumer Affairs along with copies of all contracts, warranties, guarantees, advertisements or other written agreements or transaction documentation. When the complaint form is returned, it is assigned to a complaint analyst who carefully reviews the complaint and determines what action should be taken. If a complaint falls within the jurisdiction of another state or federal agency, it is referred to that agency for action. The first step in resolving a typical complaint is to mail a copy of the consumer's complaint to the business complained against with an accompanying form from the department requesting that the business state its position, and suggest a resolution if it is the opinion of the business that an action is appropriate. When a reply is received from the business, the complaint analyst assigned to the complaint studies the position of both the consumer and the business and recommends further action or an appropriate closing. The activities of the Consumer Services Division breaks down into two separate categories which are summarized on the following Tables I and II.

Table I (and accompanying explanation) summarizes the day-to-day work activities in terms of number of telephone calls received, responded to and referred, complaints received, and other information and statistics of the work activities associated with that division.

Table II (and accompanying explanation) summarizes the manner in which complaint cases were completed and closed during FY 1994.

The Division Director gave speeches, interviews, and presentations to civic groups, newspapers, TV reporters and other media regarding consumer complaints. Consumer Services continued its coordination with the Public Information and Education Section in alerting them to unique consumer problems, scams and concerns which might warrant consumer education and media attention efforts. Consumer Services staff also continued to identify violations and to refer them to the Legal Department for action.

TABLE I

	FY1994	FY1993	FY1992
1. Telephone calls & inquiries received	53,827	58,535	50,279
2. Percent of Increase over Previous Year	.07%	.16%	.0%
3. Written Complaints Received*	4,221	4,167	4,891
4. Telephone Inquiries Referred to other State/Federal Agencies	8,083	7,245	4,626

\* The Department attempts to handle and resolve as many cases as possible during telephone conversations with the consumers and businesses involved in an effort to provide immediate assistance and to reduce administrative expenses such as postage and supplies.



TABLE I

Explanatory Notes

1. This item refers to the total number of telephone calls received and handled by the Consumer Services Division. This includes general inquiry, advice and information calls; inquiries about whether or not a complaint has been filed against a company; etc.
2. This item refers to the percent of increase in total telephone calls received over the previous year.
3. No explanation necessary.
4. No explanation necessary.

TABLE II

Explanatory Notes

444,523.88 was recovered for consumers in refunds, or adjustments during FY 1994. 4145 complaints were closed in the year ending June 30, 1994. Of this total, 2315 of the 2928 complaints actually handled by the division were closed as satisfied. Not all of the consumers whose complaints were closed as satisfied received refunds. Some of those consumers received an explanation from the business which the S. C. Department of Consumer Affairs accepted as satisfactory.

845 complaints were referred to other state or federal agencies having primary jurisdiction in the matter about which the consumer complained. 558 of the complaints were closed as information only, and required no action by the Department.

TABLE II  
Written Complaints Closed  
July 1, 1993 - June 30, 1994

CLOSING STATUS	NUMBER	PERCENT
Satisfied	2315	79.0
Unsatisfied	308	10.0
Insufficient Merit	28	1.0
Abandoned by Consumer	112	4.0
Undetermined or Disputed Facts	187	6.0
Subtotal	2950	
Referred	845	
Information Only	<u>350</u>	
TOTAL	4145	100%

TABLE II  
Explanatory Notes

\$440,223.00 was recovered for consumers in refunds, or adjustments during FY 1994. 4145 complaints were closed in the year ending June 30, 1994. Of this total, 2315 of the 2950 complaints actually handled by the division were closed as satisfied. Not all of the consumers whose complaints were closed as satisfied received refunds. Some of these consumers received an explanation from the business which the S. C. Department of Consumer Affairs accepted as satisfactory.

845 complaints were referred to other state or federal agencies having primary jurisdiction in the matter about which the consumer complained. 350 of the complaints were closed as information only, and required no action by the Department.

**Table III**  
**Complaint Categories Containing Greatest**  
**Number of Complaints**

Rank in FY 1994		Rank in FY 1992	Number FY 1994	Percent of Total Complaints
1.	Vehicles	1	1049	24.8
2.	Financial Institutions	2	462	10.9
3.	Contractors/Builders	3	294	06.9
4.	Credit	5	276	06.5
5.	Regulated Businesses	-	174	04.1
6.	Appliances	6	157	03.7
7.	Prizes & Scams	4	154	03.6
8.	Utilities	9	153	03.6
9.	Stores	7	149	03.5
10.	Mail Order	8	131	03.1



Table IV  
Written Complaints Received by County

July 1, 1992 - June 30, 1993

Counties	Population	Complaints Received	Complaints per 1000 Persons
Abbeville	23,862	16	.67
Aiken	120,940	92	.76
Allendale	11,722	9	.77
Anderson	145,196	156	.107
Bamberg	16,902	6	.35
Barnwell	20,293	17	.84
Beaufort	86,425	67	.78
Berkeley	128,776	66	.51
Calhoun	12,753	10	.78
Charleston	295,039	262	.89
Cherokee	44,506	18	.40
Chester	32,170	20	.62
Chesterfield	38,577	24	.62
Clarendon	28,450	21	.74
Colleton	34,377	25	.73
Darlington	61,851	44	.71
Dillon	29,114	18	.62
Dorchester	83,060	71	.85
Edgefield	18,375	4	.22
Fairfield	22,295	43	1.93
Florence	114,344	130	1.14
Georgetown	46,302	42	.91
Greenville	320,167	215	.67
Greenwood	59,567	49	.82
Hampton	18,191	8	.44
Horry	144,053	96	.67
Jasper	15,487	27	1.74
Kershaw	43,599	124	2.84
Lancaster	54,516	2	.04
Laurens	58,092	38	.65
Lee	18,437	11	.59
Lexington	167,611	427	2.54
McCormick	8,868	1	.11
Marion	33,899	65	1.92
Marlboro	29,361	12	.41
Newberry	33,172	43	1.29
Oconee	57,494	35	.61
Orangeburg	84,803	166	1.95
Pickens	93,894	22	.23
Richland	285,720	1002	3.51
Saluda	16,357	3	.18
Spartanburg	226,800	150	.66
Sumter	102,637	76	.74
Union	36,815	21	.57

Williamsburg	36,815	25	.68
York	131,497	65	.49
<hr/>			
TOTAL, SC	3,486,703	3840	
TOTAL - N.C. GA.,			
OTHER		381	
TOTAL WRITTEN COMPLAINTS		4221	

## DIVISION OF CONSUMER ADVOCACY

### I. Function

The Division provides legal representation of the consumer interest before state and federal regulatory agencies undertaking to fix rates or prices for consumer products or services, enact regulations or establish policies. The Division also monitors regulations, rate structures and policies of consumer-related agencies and reports proposed changes and the effect of such changes on the lives of the citizens of the State to the public through the media. The Division is responsible for ascertaining the financial soundness of continuing care retirement communities so the Department may issue licenses for their operation.

### II. Administrative Hearings

#### A. Public Service Commission (PSC)

The Division of Consumer Advocacy participated in 121 proceedings before the Public Service Commission (PSC), 37 of which were carried over from the previous year, involving approximately \$94 million. Those hearings involved requests for rate increases and new charges by electric utilities, gas companies, telephone companies, transportation companies and water and sewer companies. The PSC approved increases totaling approximately \$61.2 million in additional revenues or 65% on average of the amounts requested. In some cases, the Division of Consumer Advocacy presented expert testimony on cost of capital, accounting, and rate design issues under consideration.

In addition, the Division of Consumer Advocacy assisted customers of both regulated and non-regulated utilities with inquiries about their bills and possible service problems.

#### B. S.C. Department of Insurance

The Division of Consumer Advocacy participated in hearings involving 35 insurance filings at the S.C. Department of Insurance. Those filings involved 11 automobile insurance cases, 20 homeowners cases, and four various other cases. In the completed cases, the Chief Insurance Commissioner approved increases in premiums totaling approximately \$35.9 million or 57% of the \$63 million requested.

The Consumer Advocate participated in five insurance hearings in which decreases totaling \$106.2 million were approved by the Insurance Commissioner.

The Division of Consumer Advocacy also assisted consumers with insurance related inquiries.



### C. Continuing Care Retirement Communities

The Department is responsible for licensing continuing care retirement communities pursuant to the Continuing Care Retirement Community Act.

Between July 1, 1993 and June 30, 1994, SCDCA issued one preliminary CCRC license, six interim CCRC licenses and 12 initial CCRC licenses. Three of the six interim licenses were extensions for the remainder of the licensing cycle of previously issued licenses.

### D. Federal Agencies

#### 1. Federal Energy Regulatory Commission (FERC)

The Division of Consumer Advocacy is participating in the restructuring proceedings of Transcontinental Gas Pipe Line Company, RS-92-86-000; and Southern Natural Gas Company, RS-92-10-000; which are a result of FERC's Order No. 636 and 636-A. These orders have called for a restructuring of the natural gas industry in hopes of making the industry more competitive. However, the restructuring could end up costing consumers heavily as companies seek to recover the costs related to restructuring. The Division will also monitor appeals of Orders 636 and 636-A in the federal courts.

The Division of Consumer Advocacy is involved in a proceeding whereby Duke Power Company is seeking approval from the Federal Energy Regulatory Commission to sell 400 mw of firm capacity to Carolina Power Light Company.

#### 2. Federal Communications Commission (FCC)

The Division of Consumer Advocacy monitored a variety of decisions, policies, and proposals before the Federal Communications Commission affecting South Carolina telecommunications subscribers.

The Division of Consumer Advocacy is still participating in a pending FCC Notice of Proposed Rulemaking concerning price cap regulations and policies for dominant, as well as local exchange, carriers.

The Division of Consumer Advocacy filed Reply Comments in March 1992 on behalf of the National Association of State Utility Consumer Advocates (NASUCA) in CC Docket No. 91-281 concerning the establishment of rules and policies regarding interstate Caller ID services. There is currently no uniform nation-wide standard for blocking of a party's calling number. The position taken by the CA and NASUCA is that telephone carriers providing interstate Caller ID should respect any form of blocking allowed by the state in which the call originates; that the FCC should not establish a nation-wide policy that would lessen any protections currently established by individual states; and that other forms of calling number identification which cannot be blocked, such as Automatic Number Identification (ANI), be

discontinued in favor of methods which do allow consumers to choose to block their calling number. In March 1994, FCC released decision finding that per-call blocking would be the interstate standard, which would not permit any per-line blocking on such calls. Many petitions for reconsideration have been filed stating that this is not technically feasible without preempting in-state per-line blocking. A decision is pending.

The Division of Consumer Advocacy filed comments in DA 92-590 in which the FCC is considering whether to preempt the regulations adopted by the South Carolina Public Service Commission governing blocking of access to pay-per-call services using the 900 and 976 prefixes. The PSC had required that a ballot be sent to all local telephone customers in South Carolina to make a choice whether or not they wanted their telephone's access to these services blocked. The PSC determined that if the ballot was not returned, that customer would have his access blocked. Several pay-per-call organizations have asked the FCC to force the PSC to determine that ballots not returned would not have their access automatically blocked. Due to the overwhelming flood of complaints received by the Department concerning 900 charges, the Division has fully supported the PSC's decision. In January 1993, the FCC issued Order preempting the South Carolina PSC's decision. PSC filed for reconsideration. FCC has yet to rule.

### III. Civil Proceedings

#### A. Utility Litigation

The Division of Consumer Advocacy has been involved in 16 appeals to the Circuit Court of final orders of the Public Service Commission. Two cases were argued by the Division of Consumer Advocacy before the Circuit Court. One case was argued before the S.C. Supreme Court.

The Division of Consumer Advocacy has continued to monitor Federal court cases in conjunction with the National Association of State Utility Consumer Advocates (NASUCA).

### IV. Organizational Involvement

The Consumer Advocate serves on the South Carolina Reinsurance Facility Board of Governors and provided recommendations on various automobile insurance issues. The Consumer Advocate chaired a subcommittee charged with developing specifications for the bidding of the servicing carrier function of the Reinsurance Facility. The Consumer Advocate also serves on the Health Care Planning Committee, the Energy Advisory Committee and the Solid Waste Advisory Council.

Staff attorneys for the Division of Consumer Advocacy served on the NASUCA Gas, Water, Electric and Telecommunications Committees.



A staff attorney serves on the Advisory Committee for the S.C. Telephone Relay service, which provides a bridge between the deaf-hard of hearing community and the rest of the state's citizens.

A staff attorney serves on the Safe Drinking Water Act advisory committee, which oversees DHEC's administration of testing fees collected from customers of both public and private water utilities.

A member of the Division of Consumer Advocacy serves on the Advance Directives Coalition and the Legislative Subcommittee of the Cancer Registry Steering Committee.

## V. Legislative Involvement

### A. Federal Legislation

The Division of Consumer Advocacy monitored Federal legislation related to FERC and FCC regulatory matters.

### B. State Legislation

The Division of Consumer Advocacy monitored and evaluated legislation affecting the interests of consumers. The Consumer Advocate and staff attorneys for the Division testified before legislative committees and sub-committees regarding utility, insurance and continuing care retirement community issues.



## INFORMATION PROCEDURE

Requests for information may be made to any appropriate division of the S.C. Department of Consumer Affairs. The appropriate division for inquiries relating to complaints or statistics is the division of Consumer Services. The appropriate division for inquiries relating to office management, personnel, budget, notifications, and fees is the division of Administration.

All requests for information which require a response in the nature of a legal opinion or interpretation or a statement of official policy or position of the agency must be submitted in writing.

Submissions or suggestions designed to improve the operation of the S.C. Department of Consumer Affairs should be submitted in writing to the Administrator of the S.C. Department of Consumer Affairs, without regard to the division or activity to which they may pertain.

Requests for copies of publications, which may from time to time be issued by the S.C. Department of Consumer Affairs, should be addressed to the division of Administration. These requests may be in writing, by telephone or by personal visit.

Requests or submissions of any nature may be made in writing to the office of the Administrator of the S.C. Department of Consumer Affairs.

The agency's offices are located at 2801 Devine Street, Columbia, S.C. The mailing address is the S.C. Department of Consumer Affairs, P.O. Box 5757, Columbia, S.C. 29250. The number is 1-800-922-1594 (toll free in South Carolina).

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## HISTORICAL DATA

August 13, 1974 The S.C. Department of Consumer Affairs was established by Act 1241 of 1974, as amended.

August 19, 1974 First commissioners appointed to the S.C. Commission on Consumer Affairs.

August 29, 1974 First members appointed to the Council of Advisors on Consumer Credit.

September 30, 1974 Irvin D. Parker of Columbia appointed as the first administrator of the S.C. Department of Consumer Affairs.

November 1, 1974 S.C. Department of Consumer Affairs became operational.

September 29, 1976 Act 686 of 1976, which added to the S.C. Consumer Protection Code those portions of the Uniform Consumer Credit Code which pertained to loans and licensed lenders, became effective.

July 25, 1978 The Division of Consumer Advocacy was created by Act 644, as a new division within the S.C. Department of Consumer Affairs, with the designation of the Administrator of Consumer Affairs as the Consumer Advocate. Steven W. Hamm named first head of Division. The Act also altered the composition of the Commission on Consumer Affairs, increasing its membership to 11.

Spring, 1980 Acts 326, 337, 411, 433 and 475 were passed which provided substantial changes to the S.C. Consumer Protection Code. These changes included clarification of the law regarding usury; retention of minimum charge for consumer credit sales/loans repayment; brought State Chartered Credit Unions under the S.C. Consumer Protection Code; allows 90 days for the S.C. Insurance Commissioner to approve or disapprove forms and rate schedules; provides escalator provision for designated dollar amounts in S.C. Consumer Protection Code; increased allowable rates for revolving charge accounts and for nonsupervised lenders; conformed 3 month S.C. Consumer Protection Code notice provision to Federal Reserve Board regulation; addresses mail order loan

territorial application sales/loan  
situation.

June 12, 1981 Act No. 107, the S.C. Private Personnel Agency Act was passed. This legislation licenses, regulates and monitors the activities of employment agencies or individuals engaged in obtaining employment for others and designates the S.C. Department of Consumer Affairs, among others, as an agency responsible for investigating complaints from consumers about the activities of employment agency type businesses as well as using their enforcement jurisdiction and authority when appropriate.

July 1, 1981 Irvin D. Parker of Columbia resigned as administrator/consumer advocate of the S.C. Department of Consumer Affairs.

August 4, 1981 Roy C. Harms appointed Acting Administrator of the S.C. Department of Consumer Affairs. Steven W. Hamm appointed Acting Consumer Advocate of the S.C. Department of Consumer Affairs.

September 22, 1981 Steven W. Hamm of Columbia appointed as Administrator/Consumer Advocate of the S.C. Department of Consumer Affairs.

July 1, 1982 Act 385, the Consumer Protection Code Revision Act of 1982 became effective. The act deregulates interest rates and provides for a business established maximum rate structure. All first mortgage loans were removed from the S.C. Consumer Protection Code and some additional charges were provided for. Consumer protections were increased by strengthening the provisions on unconscionability, requiring other state agencies to investigate complaints, providing the S.C. Department of Consumer Affairs with authority to investigate unfair trade practices and to file suit on behalf of consumers when the actual damages were \$300 or less.

December, 1983 Governor Richard W. Riley designated the S.C. Department of Consumer Affairs as an additional official liaison with the U.S. Consumer Product Safety Commission which has duly commissioned its officials, under the



authority of the U.S. Consumer Product Safety Act, to conduct inspections and investigations under the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, the Flammable Fabrics Act, and the Refrigerator Safety Act.

**September 20, 1984** The Motor Club Services Act became effective. The act requires that any organization which sells, furnishes or makes available to its members any motor club services must obtain from the S.C. Department of Consumer Affairs a Certificate of Authority to operate. Application for an operating Certificate of Authority requires a bond or deposit of bond in cash or securities of \$50,000, a certified copy of its charter from the Secretary of State, articles of incorporation, by-laws, financial statement and an explanation of its plan for doing business plus other documentation. The law applies to towing services, bail and arrest bond service, emergency road services, claim adjustment services, legal services, map services, emergency travel expense services, merchandise and discount services, travel touring and travel information services, financial services, check cashing services, personal property registration services, credit card services, insurance services, and buying and selling services to club members.

**June 6, 1985** Act No. 127 of 1985 became effective. The act provides that a creditor may contract for property insurance on property all or part of which is related to the credit transaction.

**June 20, 1985** Act No. 153 of 1985 was signed into law by Governor Richard W. Riley. The act amended the Consumer Protection Code so as to make it clear that it was unconscionable to charge excess prepaid finance charges no matter how those charges were designated if they substantially exceeded the usual and customary charges for a particular type of loan. The intent of the act was to prevent misrepresentation of rates and the charging of unconscionable rates no matter how they were disclosed or identified.

June 24, 1985

Governor Richard W. Riley signed the Physical Fitness Services Act into law. The act provides that everyone providing physical fitness services, for profit, in South Carolina must pay a yearly fee and obtain a Certificate of Authority from the S.C. Dept. of Consumer Affairs. Organizations utilizing membership contracts must post a bond or demonstrate financial responsibility that will satisfy claims against the business. All operators must submit a certified copy of their charter from the Secretary of State, copies of membership agreements and contracts and a list of all outlets. Organizations that have been in business for five years (at the time the legislation was enacted) are exempt from the bonding requirement.

January 1, 1986

Act No. 121 of 1985 became effective. The act added Part 7 to Chapter 2 of the South Carolina Consumer Protection Code. The part regulates consumer rental-purchase agreements and requires rental-purchase businesses to file a notification form with the S. C. Dept. of Consumer Affairs.

May 6, 1986

Act No. 401 of 1986, which authorized a two dollar minimum charge for property insurance, became effective.

May 12, 1986

Governor Richard W. Riley signed into law an act providing that no action for damages arising out of the defective or unsafe condition of an improvement to real property may be brought more than 13 years after substantial completion of the improvement. The act requires the S. C. Dept. of Consumer Affairs to publish notice of owners' or possessors' right to enter into any contractual agreement which extends any guarantee of an improvement being free from defect beyond the 13 years as provided in the act.

June 3, 1988

Act No. 16-17-445 of 1988 became effective. The act placed restrictions on unsolicited and automatically dialed consumer telephone calls and designated the Department as the enforcement agency.

July 1, 1988

Act No. 166 of 1987 became effective whereby

the Consumer Advocate is to review auto insurance rate and recoupment filings to ensure compliance with the Act.

July 1, 1988

Act No. 491 of 1988 became effective. The act defines, clarifies and limits the charges and fees that may be imposed in connection with a pawn transaction and designated the Department as the enforcement agency.

October 1, 1988

Act 544 of 1988 becomes effective. The act clarifies the steps that must be taken by a loan broker before funds from a customer can be earned and retained. The bill also requires loan brokers to register with the Department and to escrow any funds paid by a consumer until such time that the broker secures a loan for the consumer. An amendment to Act 544 was made April 26, 1989 with Act 52§2. The 1989 amendment replaced a penalty of \$1,000 dollars, with a "penalty of no less than one thousand no or more than \$2,500, in the discretion of the administrator," and added provisions relative to decreasing the bonding requirement.

May 30, 1989

Act 119 of 1989. Governor Carroll A. Campbell, Jr. signed into law an act which amended portions of the South Carolina Code relating to credit service and loan finance charges. The act provides that when a lender has filed rates but has not posted them properly, that lender may be subject to a fine of up to \$5,000.00 payable to the Department of Consumer Affairs.

June 5, 1989

Act 142 of 1989. An act typically known as the "Lemon Law" became effective October 1, 1989. It is designed to enforce express warranties on motor vehicles. The act provides for the manufacturer's reasonable attempts to cure, then replacement of the motor vehicle or a refund of the purchase price. The Department was directed to enforce the new act.

June 5, 1989

Act 144 of 1989. An act became effective which amended the Code to delete the requirement that a consumer incur additional debt after notification of a change in terms in revolving charge and loan accounts. The



act also required such a notification to state that the consumer may pay the existing balance under the terms in effect, if the customer chooses to cancel the account. In addition, sections 37-2-405 and 37-3-402 were amended to exempt from their requirements all credit transactions and all consumer loans if the contracts specified a formula for determining the rate of finance charge upon refinancing a balloon payment.

Act 164 of 1989 became effective amending sections 37-2-202, 37-3-202 & 37-10-102. Increases maximum allowed for assumption fees under the S.C. Consumer Protection Code.

July 1, 1989

Act 148 of 1989. The Automobile Insurance Reform Act went into effect in an attempt to lower the cost of mandatory automobile insurance. The act provides, among other things, that insurers be required to grant safe driver discounts. It also provides for a review of rates as well as periodic rate adjustments. Also incorporated in this act is the requirement that occupants of motor vehicles wear properly fastened safety belts. The Department of Consumer Affairs directed to intervene in Automobile Insurance rate filings before the Chief Insurance Commissioner.

July 1, 1990

Act 97 of 1990. The State Continuing Care Retirement Community Act. The act requires that the Department of Consumer Affairs issue a license to a person filing an application in accordance with section 37-11-30 of the S.C. Code of Laws if the Department is satisfied that: (a) the individuals responsible for the conduct of the affairs of the applicant are competent and trustworthy and have good reputations; (b) The continuing care retirement community is financially responsible and can meet its obligations to residents; (c) The operator has demonstrated a willingness and the potential ability to assure that the health care or health-related services will be of good quality; (d) The operator has complied with all requirements of DHEC concerning the furnishing of nursing, medical, or other health-related services.

July, 1990	Act 456 of 1990. The Athletic Agents Act requires that each athlete agent register biennially with the Department of Consumer Affairs on forms to be provided by the department and, at the same time, pay to the department a registration fee of three hundred dollars, for which the department shall issue a certificate of authority entitling the holder to operate as an athlete agent for two years. The department may revoke or suspend the registration of an athlete agent for cause or for a violation of any provision of this chapter
June 12, 1991	Act 132 of 1991. The Department was made the licensing authority for auto brokers or its sublessors. It prevents brokers from engaging in that business without being bonded, disclosing buyers' and sellers' rights and duties and obtaining the lienholders written authorization to average the sale or sublease.
July 1, 1991	The law added certain allowable fees under the S.C. Consumer Protection Code, reduced allowable credit life premiums and added allowable administrative remedies under the Pawnbroker Act, the Physical Fitness Service Act and Unfair Trade Practices Act. Credit life premium reductions to be effective January 1, 1993.
July 1, 1992	Act 452 of 1992 regulates loan brokers (other than mortgage loan brokers previously regulated) and prevents the taking of advance fees for loan brokering. It is aimed at curbing advance fee loan frauds.
June 10, 1993	Act 161, Unfair Trade Practices Below Cost Gas Pricing, limits circumstances in which motor vehicle fuel retailers can sell below their costs and empowers the Department to investigate violative predatory pricing.
June 16, 1993	Mortgage Loan Broker Amendments increases the bond amount and requires compliance with certain portions of the Real Estate Settlement Procedures Act.
June 16, 1993	Employee Staff Leasing Act, requires registration examination and net worth assessment of businesses engaged in long

term leases of employee services to other businesses.

May 2, 1994 Governor approves Act 363 of 1994 lowering credit life premiums and allowing joint coverage on consumer credit insurance coverage.

July 14, 1994 Prizes and Gifts Act a Chapter 15 to the Consumer Protection Code to restrict misleading solicitations and promotions.



Total Number of Documents Printed	<u>255</u>
Cost Per Unit	\$ <u>1.86</u>
Printing Cost - S.C. State Budget & Control Board (up to 255 copies)	\$ <u>474.39</u>
Printing Cost - Individual Agency (requesting over 255 copies and/or halftones)	\$ <u>—</u>
Total Printing Cost	\$ <u>474.39</u>

